

EXHIBIT 3
DATE 3/17/09
SB 437

Senate Bill 437
March 17, 2009
Presented by Bob Lane
House Fish, Wildlife and Parks Committee

Mr. Chairman and committee members, I am Bob Lane, Chief Legal Counsel of Montana Department of Fish, Wildlife & Parks (FWP).

FWP supports SB 437. Exempt wells under MCA 85-2-306 are generally recognized as an issue in water allocation and regulation. There has not been agreement on how to limit exempt wells so they are not the Achilles heel of water use, threatening the protection of the private and public property rights of senior water users.

However, the use of exempt wells for fish ponds has no compelling justification like the use of ground water for single, domestic uses. In closed basins, the luxury of new fish ponds have no place unless they can meet the requirement of mitigation or aquifer recharge to protect senior water right users.

FWP knows that there are concerns that the owners of presently licensed fish ponds will not be able to use their exempt well when they renew, transfer or apply for a new license to replace a lapsed license. FWP supports an amendment to grandfather in presently licensed fish ponds.

FWP also supports an amendment to SB 437 to ensure that it does not apply to developed springs and only applies to wells that withdraw water from an aquifer. These amendments should address many of the concerns that have been raised.